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MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			MORGAN, ROBERT W	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,045

Applicant(s)

KIRSH ET AL.

Examiner

Robert W. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/3/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/3/06 has been entered.

Information Disclosure Statement

2. The information disclosure statement filed on 2/1/06 has been acknowledged and entered.

Notice to Applicant

3. This communication is in response to the amendment filed 2/1/06, the following occurred: Claims 15-21 have been added. Now claims 1-21 are presented for examination.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 4, 6-8, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,551 to Burchetta et al.

As per claim 1, Burchetta et al. teaches a method for an automated appeal process for a provider, comprising:

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--the claimed receiving provider identification from a remote provider station is met by the system that allows a user to communicate using a standard PC computer and modem via the Internet and a user security code corresponding to the dispute and identifying the user, i.e. the person or representative thereof who is making the demand or offer (see: column 2, lines 41-54);

--the claimed receiving appeal data from the remote station, wherein the appeal data comprises data descriptive of a plurality of insurance appeals is met by receiving a plurality of demands and settlement offers from the involved parties via the Internet (see: column 19, lines 32-35). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers the series of demands and offers as data descriptive of a plurality of insurance appeals;

--the claimed storing the appeal data from the remote station is met by memory means (9, Fig. 1) stores the identification of the dispute and the persons involved in the dispute (see: column 4, lines 3-5);

--the claimed sending the appeal data to an appeals unit is met by the central processing unit that receives information corresponding to three settlement offers and a plaintiff or claimant enters three demands in a plurality of communication with the system (see: column 2, lines 3-6);

--the claimed receiving appeal status information for a plurality of appeals from the appeals unit is met by the communication and processing of all demands and offers through the central processing unit (8, Fig. 1) (see: column 3, lines 64 to column 2, lines 5). In addition, Burchetta et al. teaches a computer screen displaying current status of case with corresponding details to attorney (see: column 15, lines 23-31).

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Burchetta et al. teaches computer screen displaying current status of case with corresponding details to attorney (see: column 15, lines 23-31).

Burchetta et al. fails to explicitly teach an appeal is a request for reconsideration of a claim adjudicated by an insurer.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated by the one of the parties involved such as the insurer. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

As per claim 3, Burchetta et al. teaches a system for an automated appeal process for a user, comprising:

--the claimed server connected to a remote station for receiving appeal data from the remote station is met by the system which is preferably through ColdFusion Server extension which allows for interactive processing and Microsoft's SQLserver to allow attorneys and claims adjuster to access it via a standard web browser (see: column 9, lines 58-65);

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--the claimed database for storing the appeal data is met by the information that is entered is submitted to a central database via the Internet (see: column 9, lines 65-66);

wherein the server is further configured or arranged to:

--the claimed transmit an appeal form to the user at the remote station is met when a user logs-in and agrees to participate in the dispute resolution at step 11, the system send the user to the original menu choice. The Examiner considers the original menu screen to include forms such as demand and offer forms depending on the user;

--the claimed received an appeal form containing appeal data from the user is met by receiving a plurality of demands and settlement offers from the involved parties via the Internet (see: column 19, lines 32-35);

--the claimed process the appeal form to generate an appeal having a predetermined format is met by each claim being submitted electronically is formatted to be compatible with the system for example a PC input fed to the central processing unit (see: column 9, lines 28-32);

--the claimed sending the formatted appeal to an appeal unit is met by each claim is submitted electronically is a format compatible with the system for example a PC input fed to the central processing unit (see: column 9, lines 28-32); and

--the claimed sending a status report to the user at remote station is met by the computer screen displaying current status of case with corresponding details to attorney (see: column 15, lines 23-31).

Burchetta et al. fails to explicitly teach an appeal is a request for reconsideration of a claim adjudicated by an insurer.

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However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated by the one of the parties involved such as the insurer. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

As per claim 4, Burchetta et al. teaches a method of automating an appeal process, comprising:

--the claimed electronically collecting the user information from a user and storing the user information is met receiving a plurality of demands from a first party for a claim (see: column 19, lines 32-33);

--the claimed presenting the user with a claim denial form is met by the system communicating to each party the results of the comparison of the demands and offers and results i.e. no settlement or settled at a certain amount (reads on "denial information") (see: column 9, lines 50-52);

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--the claimed collecting claim denial information and storing the claim denial information is met by the system communicating to each party the results of the comparison of the demands and offers and results i.e. no settlement or settled at a certain amount (reads on "denial information") (see: column 9, lines 50-52). In addition, Burchetta et al. teaches that all information entered is submitted to central database via the Internet (see: column 9, lines 66-67);

--the claimed presenting the user with a patient information form is met by user information screen that allow the user to add/edit information into the database such as sponsor name (patient's insurance company) (see: column 13, lines 43-65);

--the claimed collecting patient information and storing the patient information is met by user information screen that allow the user to add/edit information into the database such as sponsor name (patient's insurance company) (see: column 13, lines 43-65);

--the claimed presenting the user with a provider information form is met by the sponsor information screen that allow the sponsor to add/edit information stored in the database such as sponsor name, address, etc...(see: column 13, line 21-38);

--the claimed collecting provider information and storing the provider information is met by the sponsor information screen that allow the sponsor to add/edit information stored in the database such as sponsor name, address, etc...(see: column 13, line 21-38);

--the claimed collecting appeal status information on an adjudicated claim and storing the appeal status information is met by the case information screen that allows the claimant attorney to view information from the database such as current status of case with corresponding details (see: column 14, lines 64 to column 15, lines 31);

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--the claimed presenting the user with a check appeal status form is met by the case information screen that allows the claimant attorney to view information from the database such as current status of case with corresponding details (see: column 14, lines 64 to column 15, lines 31); and

--the claimed collecting check appeal status information and presenting the user with appeal status information based on the check appeal status information collected is met by the case information screen that allows the claimant attorney to view information from the database such as current status of case with corresponding details (see: column 14, lines 64 to column 15, lines 31).

Burchetta et al. fails to explicitly teach:

--the claimed electronically collecting the user information from a user and storing the user information; and

--the claimed appeal status information relates to request for reconsideration of a claim adjudicated by an insurer.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated by the one of the parties involved such as the insurer. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a

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claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

As per claim 6, Burchetta et al. teaches the claimed presenting an administrative interface including information on an appeal submitted. This limitation is met by the system designed to allow a user to communicate with the system through a standard PC computer and modem via the Internet (see: column 2, lines 41-43). In addition, Burchetta et al. teaches an option of the system administrator to Add/Edit information from the database such as case status information (see: column 16, lines 65 to column 17, lines 50).

As per claim 7, Burchetta et al. teaches a method for an automated appeal process, comprising:

- the claimed receiving a login request from a user is met by the claimant or their attorney entering the website to login to the system (see: column 6, lines 66 to column 7, lines);

- the claimed electronically presenting a welcome screen to the user is met by the greeting (20, Fig. 2) given the user after accessing the system (see: column 8, lines 10-15);

- the claimed receiving a first user selection from the user is met after entry and confirmation of login (22, Fig. 2), the attorney follows the prompts and enters demands (23, Fig. 2) (see: column 8, lines 16-29);

- the claimed presenting a first user screen based on the first user selection is met after entry and confirmation of login (22, Fig. 2), the attorney follows the prompts and enters demands (23, Fig. 2) (see: column 8, lines 16-29);

--the claimed receiving user identification information from the user is met by the sponsor user enters the website to login to the system (see: column 6, lines 50-);

--the claimed presenting a second user screen based on the user identification information is met at step 11 after login, where the sponsor user is presented with a choices of adding/editing cases, viewing all cases for that sponsor, or logout (see: column 10, lines 31-45),

--the claimed receiving a second user selection from the user is met at 13 which is after step 12, where the sponsor user is presented with a participation agreement (see: column 11, line 3-11); and

--the claimed presenting a third user screen based on the second user selection, the third user screen for a new appeal screen is met at step 15 where the view cases screen reveals all the information for a given case (see: column 12, lines 17-21).

Burchetta et al. fails to teach the claimed appeal status information relates to request for reconsideration of a claim adjudicated by an insurer.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated by the one of the parties involved such as the insurer. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as

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taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

As per claim 8, Burchetta et al. teaches a method for automating an appeal process, comprising:

--the claimed receiving appeal data descriptive of a plurality of appeals from a user remote station is met by receiving a plurality of demands and settlement offers from the involved parties via the Internet (see: column 19, lines 32-35). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers the series of demands and offers as data descriptive of a plurality of insurance appeals;

--the claimed converting appeal data from one or more of the plurality of appeals to a determined appeal format is met by each claim being submitted electronically is formatted to be compatible with the system, for example a PC input fed to the central processing unit (see: column 9, lines 28-32);

--the claimed sending at least a portion of the converted appeal information to an appeals unit is met by the central processing unit that receives information corresponding to three settlement offers and a plaintiff or claimant enters three demands in a plurality of communication with the system (see: column 2, lines 3-6). In addition, Burchetta et al. teaches that each claim being submitted electronically is formatted to be compatible with the system, for example a PC input fed to the central processing unit (see: column 9, lines 28-32).

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Burchetta et al. fails to teach the claimed appeal status information relates to request for reconsideration of a claim adjudicated by an insurer.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated by the one of the parties involved such as the insurer. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

As per claims 13 and 14, Burchetta et al. teaches a method for an automated appeal process, comprising:

--the claimed collecting user information and appeal data from a data provider is met by the sponsor information screen that allow the sponsor to add/edit information stored in the database such as sponsor name, address, etc...(see: column 13, line 21-38);

--the claimed electronically storing the collected data in a database is met by the information which is entered is submitted to a central database via the Internet (see: column 9, lines 65-66);

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--the claimed sending the appeal data to an appeal unit is met by the central processing unit that receives information corresponding to three settlement offers and a plaintiff or claimant enters three demands in a plurality of communication with the system (see: column 2, lines 3-6);

--the claimed receiving a status of an appeal from the appeals unit is met by the communication and processing of all demands and offers through the central processing unit (8, Fig. 1) (see: column 3, lines 64 to column 2, lines 5). In addition, Burchetta et al. teaches a computer screen displaying current status of case with corresponding details to attorney (see: column 15, lines 23-31);

--the claimed storing the status of the appeal is met by the option of the system administrator to Add/Edit information from the database such as case status information (see: column 16, lines 65 to column 17, lines 50). In addition, Burchetta et al. teaches that the system calculates, stores and tabulates settlement data once a settlement has been reached (see: column 6, lines 7-10); and

--the claimed sending the status of the appeal to the data provider is met by the computer screen displaying current status of case with corresponding details to attorney (see: column 15, lines 23-31).

Burchetta et al. fails to explicitly teach:

--the claimed appeal status information relates to request for reconsideration of a previously adjudicated claim and claim adjudicated by an insurer.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see:

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column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

6. Claims 2 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,551 to Burchetta et al. in view of U.S. Patent No. 6,766,307 to Israel et al.

As per claim 2, Burchetta et al. teaches a method for an automated appeal process for a user, comprising:

- the claimed collecting user information and appeal data from the user is met by receiving a plurality of demands and settlement offers from the involved parties via the Internet (see: column 19, lines 32-35);

- the claimed electronically storing the collected data in a database is met by the information which is entered is submitted to a central database via the Internet (see: column 9, lines 65-66);

- the claimed storing the status of appeal is met by the option of the system administrator to Add/Edit information from the database such as case status information (see: column 16, lines 65 to column 17, lines 50). In addition, Burchetta et al. teaches that the system calculates, stores and tabulates settlement data once a settlement has been reached (see: column 6, lines 7-10); and

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--the claimed sending the status of the appeal to the user is met by the computer screen displaying current status of case with corresponding details to attorney (see: column 15, lines 23-31).

Burchetta et al. fails to explicitly teach:

--the claimed sending the appeal data to an appeal agency;

--the claimed receiving a status of an appeal from the appeal agency; and

--the claimed appeal is a request for consideration of a claim adjudicated by an insurer.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated by the one of the parties involved such as the insurer. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

Israel et al. teaches a system and method for providing complete non-judicial dispute resolution management and operation where the involved parties may choose to have their dispute forwarded to a mediator or arbitrator via a network communication channel, such as

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wireless communication, the Internet or any suitable equivalent thereof (see: column 19, lines 1-18). In addition, Israel et al. teaches that the mediator or arbitrator reviews and the respective positions and issues a decision to both parties (see: column 19, lines 16-18).

Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to include sending the appeals information to a mediator or arbitrator as taught by Israel et al. within the computerized dispute resolution system as taught by Burchetta et al. with the motivation of managing and compiling all information related to the disputes for seamless progression negotiations to mediation or arbitration (see: Israel et al.: column 29, lines 16-19).

As per claim 11, Burchetta et al. teaches a method for automating an appeal process, comprising:

--the claimed receiving appeal data descriptive of a plurality of appeals from a user remote station is met by receiving a plurality of demands and settlement offers from the involved parties via the Internet (see: column 19, lines 32-35). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers the series of demands and offers as data descriptive of a plurality of insurance appeals;

--the claimed converting appeal data from one or more of the plurality of appeals to a predetermined appeal format is met by each claim being submitted electronically is formatted to be compatible with the system, for example a PC input fed to the central processing unit (see: column 9, lines 28-32); and

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--the claimed applying one or more rules to select one or more of the plurality of appeals is met by that implementation of a JavaScript program that applies an algorithm (rules) to determine lowest amounts the case will settle for, or to submit the demand (see: column 15, lines 37-45).

Burchetta et al. fails to explicitly teach:

--the claimed sending data descriptive of one or more selected appeals to an appeal agency; and

--the claimed appeal status information relates to request for reconsideration of a claim adjudicated by an insurer.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers a dispute that is not pending as a claim that has been adjudicated by the one of the parties involved such as the insurer. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

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Israel et al. teaches a system and method for providing complete non-judicial dispute resolution management and operation where the involved parties may choose to have their dispute forwarded to a mediator or arbitrator via a network communication channel, such as wireless communication, the Internet or any suitable equivalent thereof (see: column 19, lines 1-18). In addition, Israel et al. teaches that the mediator or arbitrator reviews and the respective positions and issues a decision to both parties (see: column 19, lines 16-18).

Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to include sending the appeals information to a mediator or arbitrator as taught by Israel et al. within the computerized dispute resolution system as taught by Burchetta et al. with the motivation of managing and compiling all information related to the disputes for seamless progression negotiations to mediation or arbitration (see: Israel et al.: column 29, lines 16-19).

As per claim 12, Burchetta et al. teaches a method for automating an appeal process, comprising:

--the claimed receiving appeal data descriptive of a plurality of appeals from a user remote station is met by receiving a plurality of demands and settlement offers from the involved parties via the Internet (see: column 19, lines 32-35). In addition, Burchetta et al. teaches that a defendant, or his or her insurer make a series of offers to settle a claim (see: column 1, lines 39-49). The Examiner considers the series of demands and offers as data descriptive of a plurality of insurance appeals;

--the claimed converting appeal data from one or more of the plurality of appeals to a predetermined appeal format is met by each claim being submitted electronically is formatted to

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be compatible with the system, for example a PC input fed to the central processing unit (see: column 9, lines 28-32); and

--the claimed applying one or more rules to select one or more of the plurality of appeals is met by that implementation of a JavaScript program that applies an algorithm (rules) to determine lowest amounts the case will settle for, or to submit the demand (see: column 15, lines 37-45).

Burchetta et al. fails to explicitly teach:

--the claimed sending data descriptive of one or more selected appeals to an appeal agency; and

--the claimed appeal status information relates to request for reconsideration of a previously adjudicated.

However, Burchetta et al. teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). The Examiner considers a dispute that is not pending as a claim that has been adjudicated. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an appeal that is a request for reconsideration of a claim adjudicated by an insurer with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of providing accurate appeal information thereby allowing the opportunity for involved parties to successfully settle their claims easily, effectively and inexpensively.

Israel et al. teaches a system and method for providing complete non-judicial dispute resolution management and operation where the involved parties may choose to have their dispute forwarded to a mediator or arbitrator via a network communication channel, such as wireless communication, the Internet or any suitable equivalent thereof (see: column 19, lines 1-18). In addition, Israel et al. teaches that the mediator or arbitrator reviews and the respective positions and issues a decision to both parties (see: column 19, lines 16-18).

Therefore, it would have been obvious to a person of ordinary skill in the art the time the invention was made to include sending the appeals information to a mediator or arbitrator as taught by Israel et al. within the computerized dispute resolution system as taught by Burchetta et al. with the motivation of managing and compiling all information related to the disputes for seamless progression negotiations to mediation or arbitration (see: Israel et al.: column 29, lines 16-19).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,551 to Burchetta et al. in view of U.S. Patent No. 4,858,121 to Barber et al.

As per claim 5, Burchetta et al. teaches that all information entered is submitted to central database via the Internet (see: column 9, lines 66-67).

Burchetta et al. fail to teach:

- the claimed presenting the user with a credit card information form; and
- the claimed collecting credit card information.

Barber et al. teaches medical payment system where during the credit card transaction an operator is walked through a series of questions and instructions complete the transaction (see:

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column 5, lines 21-36). The Examiner considers the questions to be located on a credit card information form.

One of ordinary skill in the art the time the invention was made would have found it obvious to include credit card transaction information as taught by Barber et al. within the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of decreasing the time delay between when a service is provided and the compensation for physician to lowering overhead (see: Barber et al.: column 1, lines 50-53).

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,551 to Burchetta et al. in view Official Notice.

As per claims 9 and 10, Burchetta et al. teaches that each claim being submitted electronically is formatted to be compatible with the system, for example a PC input fed to the central processing unit (see: column 9, lines 28-32).

Burchetta et al. fails the explicitly teach the claimed conversion further comprises converting the information to conform with a format described by a public law and public regulation.

The Examiner takes Official Notice that formatting appeal information according to public laws and regulations are old and well known in the art. For example, each state may have different laws and regulations that govern a settle amount insurance company's pay for an adjudicated claim. One of ordinary skill in the art at the time the invention was made would have found it obvious to include the adhering the public law and regulation with the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of

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applying state-by-state guidelines and standards to avoiding the commitment of fraud and abuse of payment for the settlement of a claim.

9. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,330,551 to Burchetta et al. in view of "Cardiff Software Announces TELEform MediClaim Module to PR Newswire hereinafter ("Newswire").

As per claim 15, Burchetta et al. teaches a method for an automated appeal process, comprising:

--the claimed receiving appeal data from a remote station is met by the sponsor information screen that allow the sponsor to add/edit information stored in the database such as sponsor name, address, etc... (see: column 13, line 21-38);

--the claimed storing the appeal data from the remote station in a database is met by the information which is entered is submitted to a central database via the Internet (see: column 9, lines 65-66); and

--the claimed sending the formatted appeal to an appeal unit, wherein the appeal relates to a request for reconsideration of a determination of entitlement to benefits or services is met by the central processing unit that receives information corresponding to three settlement offers and a plaintiff or claimant enters three demands in a plurality of communication with the system (see: column 2, lines 3-6).

Burchetta et al. fails to teach:

--the claimed associated the appeal data with one or more bases for an appeal; and

--the claimed generating an appeal form based on at least one of the associated bases and according to a predetermining format.

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Newsire teaches the MediClaim module that reads and interprets handprint and machine print information from HCFA 1500 and UB-92 forms (see: paragraph 2). In addition, Newsire teaches that completed claims forms are scanned into the TELEform for processing and customized validations such as ICD-9, CPT (reads on “one or more bases for an appeal”) are executed and the Export Manager performs the conversion from the table to the required output format (reads on “predetermining format”) (see: paragraph 4-9 and 15).

One of ordinary skill in the art at the time the invention was have found it obvious to include the MediClaim module using an Export Manager to format the appeal form as taught by the Newsire within the computerized dispute resolution system and method as taught by Burchetta et al. with the motivation of eliminating cost of manual data entry and automatically creating any standardized output required by the insurance providers and the Health Care Financing Administration (see: Newsire: paragraph 1).

As per claim 16, Burchetta et al. fails to explicitly teach the claimed wherein the associated of appeal data with one or more bases for an appeal is based on results of a previously submitted claim or appeal.

Newsire teaches that completed claims forms (reads on “previously submitted claim or appeal”) are scanned into the TELEform for processing and customized validations such as ICD-9, CPT are executed and the Export Manager performs the conversion from the table to the required output format (see: paragraph 4-9 and 15).

The obviousness of combining the teachings of Newsire within the Burchetta et al. reference are discussed in the rejection of claim 15, and incorporated herein.

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As per claim 17, Burchetta et al. fails to explicitly teach the claimed wherein the appeal data comprises data descriptive of a plurality of insurance appeals.

Newswire teaches that completed claims forms are scanned into the TELEform for processing and customized validations such as ICD-9, CPT (reads on “data descriptive of a plurality of insurance appeals”) are executed and the Export Manager performs the conversion from the table to the required output format (see: paragraph 4-9 and 15).

The obviousness of combining the teachings of Newswire within the Burchetta et al. reference are discussed in the rejection of claim 15, and incorporated herein.

As per claims 18-20, Burchetta fails to teach extracting available data elements from a standardized data form, wherein the standardized data form is an HCFA 1500, NSF version 2.0 or 3.0 UB92, or ANSH data form is a HIPPA 835 or HIPAA 837 data form.

Newswire teaches that the Export Manager provides advance customization to all required data export formats, including NSF, UB-92 and 837 and performs the conversion from the table to the required output format (see: paragraph 4, 6 and 15).

The obviousness of combining the teachings of Newswire within the Burchetta et al. reference are discussed in the rejection of claim 15, and incorporated herein.

As per claim 21, Burchetta teaches a method for an automated appeal process, comprising:

--the claimed receiving appeal data from a remote station is met by the sponsor information screen that allow the sponsor to add/edit information stored in the database such as sponsor name, address, etc...(see: column 13, line 21-38);

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--the claimed storing the appeal data from the remote station in a database is met by the information which is entered is submitted to a central database via the Internet (see: column 9, lines 65-66); and

--the claimed sending the formatted appeal to an appeal unit, wherein the appeal relates to a request for reconsideration of a determination of entitlement to benefits or services is met by the central processing unit that receives information corresponding to three settlement offers and a plaintiff or claimant enters three demands in a plurality of communication with the system (see: column 2, lines 3-6).

Burchetta et al. fails to explicitly teach:

--the claimed processing the stored appeal data to identify a basis for an appeal; and

--the claimed generating an appeal form comprising the identified basis for the appeal and according to a predetermined format.

Newswire teaches the MediClaim module that reads and interprets handprint and machine print information from HCFA 1500 and UB-92 forms (see: paragraph 2). In addition, Newswire teaches that completed claims forms are scanned into the TELEform for processing and customized validations (reads on "identify a basis for an appeal") such as ICD-9, CPT are executed and the Export Manager performs the conversion from the table to the required output format (reads on "predetermining format") (see: paragraph 4-9 and 15).

The obviousness of combining the teachings of Newswire within the Burchetta et al. reference are discussed in the rejection of claim 15, and incorporated herein.

Response to Arguments

10. Applicant's arguments filed 9/11/03 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response 9/11/03.

(A) In the remarks, Applicants argue in substance that (1) there is no suggestion anywhere in Burchetta that the described negotiation process in any way involves claim that has been adjudicated by an insurer and (2) the Examiner has not identified any motivation in the prior art to apply a computerized dispute resolution system to an appeal that is a request for reconsideration of a claim adjudicated by an insurer.

(B) In response to Applicant arguments that, (1) there is no suggestion anywhere in Burchetta that the described negotiation process in any way involves a claim that has been adjudicated by an insurer and (2) the Examiner has not identified any motivation in the prior art to apply a computerized dispute resolution system to an appeal that is a request for reconsideration of a claim adjudicated by an insurer. The Examiner respectfully submits the Burchetta reference teaches a computerized system for automated dispute resolution through the Intranet or Internet where a dispute is a claim against another person or against whom another person has asserted a claim, whether the litigation is pending or not (see: column 4, lines 23-27). The Examiner considers litigation which is not pending as a claim that has been adjudicated by an insurer and the courts have held that even if a patient does not specifically disclose a particular element said element being within the knowledge of a skilled artisan, the patent taken in combination with that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36 USPQ 2d 1697 (Fed. Cir. 1995).

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Furthermore, the Examiner respectfully submits and recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is respectfully contended that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

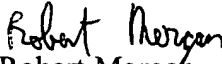
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert Morgan
Patent Examiner
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